

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:03-CR-77-T-30TBM

HATEM NAJI FARIZ

**RESPONSE OF THE UNITED STATES TO
DEFENDANT HATEM NAJI FARIZ'S MOTION
TO RECONSIDER SELF-SURRENDER DATE
AND MOTION TO SUPPLEMENT MOTION FOR RECONSIDERATION**

The United States of America by Paul I. Perez, United States Attorney, Middle District of Florida, submits the following response in opposition to the defendant's Motion to Reconsider Self-Surrender Date (Doc. 1642) and Motion to Supplement Motion for Reconsideration (Doc. 1643).

This cause is once again before this Court on the latest motion by the defendant to delay beginning service of his 37-month prison sentence, imposed as a result of a conviction for conspiring to make a contribution of funds, goods or services to a specially designated terrorist organization. This Court denied his first motion on October 6, 2006 (Endorsed Order, Doc. 1641). The United States opposes any further continuance of the defendant's voluntary surrender date for the reasons stated below and for the reasons stated previously in its response to the first motion (Doc. 1640).

According to his motion, the defendant desires to delay beginning the service of his prison sentence so that he can participate in an annual religious observance with his family, which event runs in 2006 from approximately September 25 to October 24.

While the desire to be with one's family during this time is understandable, it is not a valid reason to further delay the defendant's reporting date. On July 25, 2006, at the defendant's sentencing hearing, this Court gave the defendant the privilege of self-surrender. On that date, the defendant well knew the 2006 dates of his annual religious observance, and yet said nothing to this Court. Pursuant to this Court's order on self-surrender, the Middle District of Florida Marshal's Service later directed the defendant to report to Coleman Prison on September 5, 2006.

On August 18, 2006, the defendant was sentenced in the Northern District of Illinois to a concurrent term of imprisonment of 51 months for a conviction on an unrelated fraud offense. The Northern District of Illinois District Court Judge ordered the defendant to report to prison on October 3, 2006. (The Middle District of Florida Marshal's Service later reset defendant's self-surrender date to October 3, 2006.)

Then, on September 27, 2006, the defendant for the first time asked a United States District Judge for an order extending his reporting date to allow him to celebrate an annual religious event in a manner of his own choosing.¹ However, the defendant did not ask this Court for such an order, even though this Court was the first to sentence the defendant and the two cases were and are independent of one another. Instead, the defendant approached the Northern District of Illinois Judge, and in fact, has done

¹ We have been informed by counsel for defendant that the Northern District of Illinois Judge did not actually deny defendant's request for a delay of the reporting date beyond October 10, 2006, as suggested in the government's earlier pleading. Apparently, the Northern District of Illinois Judge extended the reporting date to October 10, 2006, to give the United States an opportunity to respond and argue its position. Then, on October 10, 2006, the Northern District of Illinois Judge extended the reporting date to October 31, 2006.

so each and every time since this round of motions began. While the defendant suggests in his latest motion that he selected this course of action out of ignorance or confusion, the circumstances are more consistent with blatant forum-shopping. The defendant has continually gone to the Northern District of Illinois Judge, the second sentencing court, to request an extension of his reporting date and then sought to have this Court rubber-stamp those decisions.

If the defendant's motion had ever been predicated upon a unique personal emergency such as a health issue within the family, or a death, then the situation could have been properly weighed and considered. But, an annual religious observance, no matter its importance to the defendant, is not a unique or unexpected occurrence. The litigation being undertaken as a result of this request runs completely counter to the reasons for the privilege of self-surrender, such as economy to the parties and the United States Marshal's Service and an opportunity for the defendant to get his personal affairs in order. In fact, this process is quickly making a mockery of the criminal justice system and the consideration this Court showed to the defendant on July 25, 2006. It is time to put this to an end.

There is never a good time to go to prison.

As it stands right now, defendant Fariz has two different reporting dates: (1) October 11, 2006, for the Middle District of Florida sentence; and (2) October 31, 2006, for the Northern District of Illinois sentence. The United States requests a prompt ruling denying defendant's motion so that it will be crystal clear to the defendant that he must report to prison on October 11, 2006, to begin service of his Middle District of Florida sentence.

Accordingly, for the foregoing reasons, the United States respectfully requests that this Court deny defendant's Motion for Reconsideration.

Respectfully submitted,

PAUL I. PEREZ
United States Attorney

By: /s/ Terry A. Zitek
TERRY A. ZITEK
Executive Assistant U.S. Attorney
Florida Bar No. 0336531
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
Telephone: (813) 274-6336
Facsimile: (813) 274-6108
Email: terry.zitek@usdoj.gov

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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2006, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Mara Allison Guagliardo
allison_guagliardo@fd.org
linda_rodriguez@fd.org
rachel_may@fd.org

By: /s/ Terry A. Zitek
TERRY A. ZITEK
Executive Assistant U.S. Attorney
Florida Bar No. 0336531
400 North Tampa Street, Suite 3200
Tampa, Florida 33602
Telephone: (813) 274-6336
Facsimile: (813) 274-6108
Email: terry.zitek@usdoj.gov